

**Remove the disaster provisions of Revenue and Taxation Code Section 218 and place in a new section. (Housekeeping)**

**Source: Property And Special Taxes Department**

**Existing Law**

Article XIII, Section 3(k) of the California Constitution exempts from property tax the first \$7,000 of the full value of a dwelling when occupied by an owner as his principal residence. This exemption is commonly referred to as the “homeowners’ exemption.”

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners’ exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Generally homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners’ exemption. Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters as noted below will not be disqualified as a “dwelling” or be denied the homeowners’ exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners’ exemption for those properties temporarily vacated for repairs. (See Letter To Assessors 82/50, Question G16) However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 “Homeowners’ Exemption – Disaster Impact”) Referenced documents available at [www.boe.ca.gov](http://www.boe.ca.gov) select “Property Taxes.”

<b>Disaster</b>	<b>Year</b>	<b>Legislation</b>
Shasta County wildfires	2005	Stats. 2005, Ch. 624 (AB 14)
Southern California storms (Kern, Los Angeles, Santa Barbara and Ventura Counties)	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California storms (Orange, Riverside, San Bernardino, and San Diego Counties)	2005	Stats. 2005, Ch. 622 (SB 457)
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch. 1180 (SB 1639)

### **This Proposal**

This proposal would make these provisions standard for all Governor declared disasters. The Governor included a signing message in last year's AB 18 (Ch. 624, Stats. 2005) requesting that standard purpose legislation be enacted to avoid the need to introduce special purpose legislation each year. In addition, this bill would codify the Board's current opinion on homes that are only partially damaged

*Section 218 of the Revenue and Taxation Code is amended to read:*

218. (a) The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the Constitution. That exemption shall be in the amount of seven thousand dollars (\$7,000) of the full value of the dwelling.

(b) The exemption does not extend to property that is rented, vacant, under construction on the lien date, or that is a vacation or secondary home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption.

(c) For purposes of this section, all of the following apply:

(1) "Owner" includes a person purchasing the dwelling under a contract of sale or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling.

(2) (A) "Dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. A two-dwelling unit shall be considered as two separate single-family dwellings.

(B) "Dwelling" includes the following:

(i) A single-family dwelling occupied by an owner thereof as his or her principal place of residence on the lien date.

(ii) A multiple-dwelling unit occupied by an owner thereof on the lien date as his or her principal place of residence.

(iii) A condominium occupied by an owner thereof as his or her principal place of residence on the lien date.

(iv) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in subdivision (i) of Section 61, as his or her principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the exemption.

~~(d) Any dwelling that qualified for an exemption under this section prior to October 20, 1991, that was damaged or destroyed by fire in a disaster, as declared by the Governor, occurring on or after October 20, 1991, and before November 1, 1991, and that has not changed ownership since October 20, 1991, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on~~

~~the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.~~

~~(e) Any dwelling that qualified for an exemption under this section prior to October 15, 2003, that was damaged or destroyed by fire or earthquake in a disaster, as declared by the Governor, during October, November, or December 2003, and that has not changed ownership since October 15, 2003, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.~~

~~(f) Any dwelling that qualified for an exemption under this section prior to June 3, 2004, that was damaged or destroyed by flood in a disaster, as declared by the Governor, during June 2004, and that has not changed ownership since June 3, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.~~

~~(g) Any dwelling that qualified for an exemption under this section prior to August 11, 2004, that was damaged or destroyed by the wildfires and any other related casualty that occurred in Shasta County in a disaster, as declared by the Governor, during August 2004, and that has not changed ownership since August 11, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.~~

~~(h) Any dwelling that qualified for an exemption under this section prior to December 28, 2004, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor, during December 2004, January 2005, February 2005, March 2005, or June 2005, and that has not changed ownership since December 28, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed out or damaged roads.~~

~~(d i) The exemption provided for in subdivision (k) of Section 3 of Article XIII of the Constitution shall first be applied to the building, structure or other shelter and the excess, if any, shall be applied to any land on which it may be located.~~

*Section 218.05 is added to the Revenue and Taxation Code:*

218.05 (a) A dwelling that is vacant on the lien date because it was partially destroyed or damaged in a disaster, such as a fire or flood, will not result in the loss of the homeowners' exemption, provided the owner's absence from the dwelling is temporary and the owner intends to return to the dwelling when possible to do so. However, except as provided in subdivision (b), when a dwelling has been totally destroyed in a disaster, and thus no dwelling exists on the lien date, the exemption is not applicable until the structure has been replaced and is occupied as a dwelling.

(b) A dwelling that has been totally destroyed in a Governor declared disaster, which qualified for the homeowners' exemption prior to the disaster, will not result in the loss of the homeowners' exemption, provided the owner's absence from the dwelling is temporary and the owner intends to return to the dwelling when possible to do so.